

AGENDA DATE: 3/15/00



State of New Jersey
Board of Public Utilities

Two Gateway Center
Newark, NJ 07102

IN THE MATTER OF THE PETITION OF)
NEW JERSEY NATURAL GAS COMPANY)
FOR APPROVAL TO ESTABLISH A FLOOR)
PRICE FOR APPLIANCE SERVICE)
CONTRACT AND NON-CONTRACT)
SERVICES AND TO IMPLEMENT THREE)
NEW ELECTRIC CENTRAL AIR)
CONDITIONING SERVICES)

ENERGY

DECISION AND ORDER

DOCKET NO. GT99060394

(SERVICE LIST ATTACHED)

BY THE BOARD:

On June 17, 1999, New Jersey Natural Gas Company ("NJNG" or "Company") filed a petition with the Board of Public Utilities (Board) for approval, pursuant to the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. ("EDECA" or "Act"): (1) to establish a floor price for existing contract and non-contract appliance service offerings; (2) to implement three new electric central air conditioning repair services ("Appliance Service electric central air conditioning repair," "Air Conditioning Tune-up Service" and "Air Conditioning Contract"); and (3) for confidential treatment of the floor price calculation and the pro forma revenues and expenses of the new service offerings. In the event the Board required more time to review the proposed new electric air conditioning services, NJNG alternatively requested the Board's immediate approval of a floor price for existing appliance service programs, pending a determination of the proposed electric air conditioning and contract offerings.

On June 30, 1999, NJNG filed an amendment and supplement to its petition, requesting the establishment of a floor price for the existing "Additional Furnace" feature of its Protection Plan and Protection Plan Plus contracts and to implement an "Additional Air Conditioning" feature for its Protection Plan contract, which services the Company maintains were inadvertently omitted from the original petition. The Company also requested confidential treatment of its workpapers relating to the floor price calculation and floor price comparison.

BACKGROUND

At the time of filing the instant petition, and the subsequent amendment and supplement thereto, NJNG served its residential customers' appliances through three non-safety and non-emergency related programs, all of which have been previously approved by the Board as competitive services. The following is a brief description of the services.

Non-Contract Services

This program is for non-contract requests for appliance service under which the customer is charged either a flat fee or an hourly fee per call. Under this program, NJNG offers the following services: "Appliance Service"; "Pre-Season Heating Service"; and "House Heater Cleaning Service".

Appliance Service Contract

Under this program, a customer may choose one or two plans, either the "Protection Plan" or Protection Plan Plus", pay an annual service charge and receive service and parts if the appliances covered under the plan need repair during the year. The Protection Plan offers coverage on natural gas house heaters, water heaters, or both, with an annual charge for each option, regardless of whether service to the covered appliances is rendered during the year. The Protection Plus Plan includes all the features of the Protection Plan plus an annual inspection of the equipment covered. Limited parts are included under both of these plans.

Cool Summer Savings Plan

This plan was approved by the Board on an interim basis as a pilot program. The plan offered electric central air conditioning repair service through a referral network of qualified heating, ventilation and air conditioning contractors. The customer paid a sixteen-month service charge for preferred service, free diagnosis of repair problems and a ten percent discount off the repair bill, excluding taxes. Subsequent to implementing this plan, NJNG advised the Board, by letter dated April 28, 1999, that the Company would not be expanding the plan, but would only service existing contracts until they expired through September 30, 1999. Thus, this plan has now expired.

Company Proposal

NJNG asserts that its request for permission to expand its appliance service program to include the service and repair of electric air conditioners both as contract and non-contract jobs is substantially similar to the Board-approved services provided by the Company under its Cool Summer Savings program and services provided by Public Service

Electric and Gas Company and South Jersey Gas Company prior to the effective date of the Act. NJNG further argues that numerous vendors exist throughout New Jersey from whom customers may purchase comparable services, and that the Company's proposed service and price are competitive with the services and prices offered by those vendors.

NJNG further asserts that the proposed floor prices of its services, including the new electric central air conditioning services, are at or above the fully allocated cost to provide the services to customers and are not subsidized by the Company's regulated customer services. The Company maintains that its pro forma income statements demonstrate that the proposed prices will recover in excess of the costs of providing these services. The Company also maintains that its competitive service offerings will not adversely impact its ability to offer its non-competitive services to customers in a safe, adequate and proper manner.

NJNG proposes to establish a floor price for its residential contract and non-contract appliance services, including its proposed new electric central air conditioning services, which floor price shall not be less than the fully allocated cost of providing such services. The Company has provided calculations containing the derivation of the hourly rate floor price, including the expenses for its appliance service activities for the twelve months ending December 31, 1998. The Company asserts that the expenses include the direct labor, fringe benefits, motor vehicle and travel expenses associated with the service technicians and supervisors, the costs to answer and dispatch telephone calls for service, and the administrative costs needed to support the activities. Based upon its total appliance service activity for 1998, the Company calculated an average cost per hour floor price of \$99.02. Parts for non-contract jobs are charged to customers at manufacturers' suggested retail prices.

Based upon the above calculations, the Company provided its proposed floor price for both contract and non-contract services. The floor price for contract services is based upon the average time per call and calls per contract. NJNG proposes no immediate change to rates for existing contract services. However, the Company is proposing to change its floor price for existing and proposed non-contract services upon receiving Board approval.

NJNG also proposes to offer its non-contract customers a twenty-seven percent (27%) discount price for service if a technician is already at the residence to service one appliance and the customer requests service for another appliance. The discount would be based upon the fact that, since the technician is already at the residence, there would be no additional travel, dispatch or customer inquiry costs, with the discounted service floor price reflecting the exclusion of these costs.

Finally, NJNG asserts that it should be permitted to modify its pricing, based

upon market conditions, as long as the price exceeds the approved floor price. The Company states that it will maintain separate detailed accounting for revenues and expenses pertaining to its appliance service programs, and continue to file quarterly reports with the Board.

During its review of NJNG's petition, the Board Staff examined the various expense components comprising the average floor price calculation and discussions were held with the Company. As a result of said discussions, by its correspondence dated August 9, 1999, NJNG revised its average cost per hour floor price to \$101.37. As a result of this revision, the specific floor prices, plus sales tax when appropriate, for contract and non-contract services are proposed as follows:

Contract Services – Protection Plan

Combination House Heater and Water Heater	\$ 27.32
Combination House Heater and Water Heater – Senior	\$ 37.58
A/C Combination-House Heater, Water Heater and A/C	\$ 84.33
A/C Combination-House Heater, Water Heater and A/C – Senior	\$115.97
House Heater Only	\$ 31.86
House Heater Only – Senior	\$ 38.23
Electric A/C	\$ 44.69
Electric A/C – Senior	\$ 53.63
Water Heater Only	\$ 6.52
Each Additional Furnace	\$ 18.19
Each Additional Furnace – Senior	\$ 18.29
Each Additional A/C	\$ 56.77
Each Additional A/C – Senior	\$ 57.08

Contract Services-Protection Plan Plus

House Heater Plus	\$ 99.61
House Heater Plus – Senior	\$129.87
Combination Plus	\$110.98
Combination Plus – Senior	\$137.55
Each Additional Furnace Plus	\$ 67.66
Each Additional Furnace Plus – Senior	\$ 69.50
Each Additional Furnace and Water Heater Plus	\$ 74.93
Each Additional Furnace and Water Heater Plus – Senior	\$ 72.98

Non-Contract Services

Appliance Service (per hour)	\$101.37
Pre-Season Heating Service (per job)	\$ 76.03
A/C Tune-Up (per job)	\$101.88
House Heater Cleaning Service (per job)	\$182.47

By its letter dated March 14, 2000, The Division of the Ratepayer Advocate (Advocate) asserts that the Board should not review this request in isolation, but, rather, to place it in context of larger competitive issues that the Board will examine in the future proceeding concerning the audit of competitive services required by the Act. The Advocate also recommends that the Board deny NJNG the ability to change its service prices at will. The Advocate also recommends that the Board should not approve this request until the required audit has been completed. Alternatively, the Advocate argues that if the Board decides to approve this request, the approval should be on an interim basis subject to later amendment or reversal in light of all the relevant issues of fair competition for these services, the standards for affiliate relations and accounting for these transactions. Lastly, the Advocate recommends that the Board withhold its decision on this request until the written order approving the interim affiliate relation standards has been issued and the interim regulations published.

Discussion and Findings

In considering the Company's request, it is necessary to ensure that the proposed competitive service offerings comply with the EDECA, as it provides certain specific criteria for electric and gas utilities to provide competitive services. Among other provisions of the Act, subsection 10(b)(3), N.J.S.A. 48:3-58(b)(3) permits, subject to Board approval, an electric or gas public utility to provide competitive services that have been offered by any electric or gas public utility since prior to January 1, 1993, or that have been approved by the Board prior to the effective date of this act to be offered by any electric public utility or gas public utility.

Subsection 10(b)(4), N.J.S.A. 48:3-58(b)(4) also permits a gas public utility to provide, subject to Board approval services that are substantially similar to competitive services that are permitted under paragraph (3) of this subsection.

With respect to NJNG's request to expand its appliance services to include the service and repair of electric central air conditioners, the Board is satisfied that the proposed new programs are comparable to the services provided by Public Service Electric and Gas Company and South Jersey Gas Company prior to the effective date of the Act. Furthermore, we are satisfied that the proposed new programs are comparable to the

services offered by other non-utility vendors and that the Company's proposed services and prices are competitive with the services and prices offered by those vendors. We further **FIND**

that the proposed service offerings meet the above criteria as set forth in the Act. Accordingly, pursuant to subsection 10(b)(4), N.J.S.A. 48:3-58(b)(4) of the Act, we **HEREBY APPROVE** the Company's proposed electric central air conditioning programs.

The Act allows the Board to approve a competitive service only upon a finding that the provisions of subsection 10(d), N.J.S.A. 48:3-58(d) are met. Subsection 10(d)(1) requires that:

the provision of a competitive service by a gas public utility shall not adversely impact the ability of the gas public utility to offer its non-competitive services to customers in a safe, adequate and proper manner, and in all instances where resources are jointly deployed by the utility to provide competitive and non-competitive services and resource constraints arise, the provision of non-competitive service shall receive a higher priority...

The Board is satisfied that the Company has taken measures to ensure that the provision of non-competitive services to the Company's customers will not be adversely affected by the provision of its contract and non-contract competitive services. We **HEREBY FIND** that there has been no identified dereliction of responsibility by NJNG to its regulated public utility responsibilities in the provision of previously approved competitive service offerings, and that the Company has demonstrated that it has been able to provide both competitive and non-competitive services by its service technicians without any degradation of service. Furthermore, we find that utility service should be enhanced by the Company's reorganization of its field operations, whereby one group of employees will be assigned exclusively to perform utility work, another group to respond to emergency calls, and the third group to perform competitive services work while remaining as backup workers for non-competitive services. The Board will continue to monitor these competitive activities to ensure that the requirements of N.J.S.A. 48:3-58(d) are met and that utility service quality is not adversely affected. This issue will also be examined as part of the independent audit described below.

Subsection 10(d)(2), N.J.S.A. 48:3-58 (d)(2) of the Act requires that the price that a gas public utility charges for a competitive service shall not be less than the fully allocated cost of providing such service, as determined by the board, which cost shall include an allocation of the cost of all equipment, vehicles, labor, related fringe benefits and overheads, and administration utilized, and all other assets utilized and costs incurred, directly or indirectly, in providing such competitive service. Having reviewed the record in this matter, the Board **HEREBY FINDS** that the proposed floor prices appear to be fair,

reasonable and above the fully allocated cost of providing existing and proposed contract and non-contract appliance services. We further note that the proposed charge for each tariff

offering is significantly in excess of the proposed floor price. We additionally note that subsection 10(k) of EDECA, N.J.S.A. 48:3-58(k) requires the Board to adopt fair competition, affiliate relation, and accounting standards concerning the offering of competitive services, and the performance of periodic independent audits to ensure compliance with said standards. These standards were adopted by the Board at its February 16, 2000, agenda meeting, and released by Order dated March 15, 2000, in Docket No. EX99030182. Therefore, pursuant to subsection 10(d)(2), N.J.S.A. 48:3-58(d)(2), the Board **HEREBY APPROVES** NJNG's proposed floor prices for its existing and proposed contract and non-contract appliance services, as submitted, on an interim basis and subject to refund to the Company's ratepayers pending the results of an independent audit of the Company's records relating thereto. In addition, if the floor price for a competitive service changes for any reason, the Company shall timely submit revised calculations, for approval by the Board, demonstrating that the fully allocated cost of providing that competitive service remains above the floor price. The Board reserves its right to require the Company to demonstrate that the charge for any competitive service offering remains above the approved floor price.

Section 10(d) N.J.S.A. 48:3-58(d), also provides that the Board may require that a gas public utility file and maintain tariffs for competitive services, which tariffs shall be subject to review and approval by the Board. The Board **FINDS** that the filing and timely maintenance of tariff sheets relating to the provision of all competitive services by all utilities is in the public interest. We therefore **HEREBY DIRECT** NJNG to provide tariffs for all approved competitive service offerings within ten (10) days of the date of this Order. Said tariff sheets shall contain, at a minimum, the date upon which each service offering was approved by this Board, the docket number under which said approval was made, a detailed description of the service offering including any limits of coverage, the approved floor price for each service offering, and the current charge for each service offering. If any change occurs to the current charge or limits of coverage, the Company shall file revised tariff sheets thirty (30) days prior to the effective date of said change. The Board notes that NJNG provided proposed tariff sheets in its petition, as revised by its letter dated August 9, 1999.

The Board has considered the Company's request for confidential treatment of its floor price calculations, related workpapers and pro forma revenues and expenses for the new service offerings. We are convinced that disclosure of this information could enable potential competitors to gain an unfair advantage, thereby undermining the Company's competitive position. We therefore **FIND** NJNG's request for confidential treatment to be reasonable and **HEREBY ORDER** that the aforementioned information be exempt from public disclosure.

The Company is directed to maintain separate detailed accounting for revenues and expenses for its appliance service programs. Furthermore, the Company shall continue to file its existing quarterly reports regarding its competitive service activities with the Board until such time as this requirement may change by a subsequent Board action.

DATED: 3/27/00

**BOARD OF PUBLIC UTILITIES
BY:**

(signed)
**HERBERT H. TATE
PRESIDENT**

(signed)
**CARMEN J. ARMENTI
COMMISSIONER**

(signed)
**FREDERICK F. BUTLER
COMMISSIONER**

ATTEST: (signed)
**EDWARD D. BESLOW
ACTING SECRETARY**

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